

**EXECUTIVE SUMMARY - ENFORCEMENT MATTER** Page 1 of 2  
**DOCKET NO.: 2007-0585-PST-E TCEQ ID: RN101872133 CASE NO.: 33268**  
**RESPONDENT NAME: JOHN PAUL DODSON AND WILLIAM DODSON**

<b>ORDER TYPE:</b>		
<input type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input checked="" type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
<b>CASE TYPE:</b>		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p><b>SITE WHERE VIOLATION(S) OCCURRED:</b> 321 South Poplar Street, Kermit, Winkler County</p> <p><b>TYPE OF OPERATION:</b> Non-operating convenience store with retail sales of gasoline</p> <p><b>SMALL BUSINESS:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>OTHER SIGNIFICANT MATTERS:</b> There are no complaints. There is no record of additional pending enforcement actions regarding this facility location or these Respondents.</p> <p><b>INTERESTED PARTIES:</b> No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p><b>COMMENTS RECEIVED:</b> The <i>Texas Register</i> comment period expired on April 21, 2008. No comments were received.</p> <p><b>CONTACTS AND MAILING LIST:</b></p> <p style="margin-left: 20px;"><b>TCEQ Attorney:</b> Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019  Ms. Jennifer Cook, Litigation Division, MC 175, (512) 239-1873</p> <p style="margin-left: 20px;"><b>TCEQ Enforcement Coordinator:</b> Mr. Tom Greimel, Waste Enforcement Section, MC 128, (512) 239-5690</p> <p style="margin-left: 20px;"><b>TCEQ Regional Contact:</b> Mr. Michael Edmiston, Midland Regional Office, MC R-7, (432) 620-6121</p> <p style="margin-left: 20px;"><b>Respondent:</b> Mssrs. John Paul Dodson and William Dodson, 505 East Van, Kermit, Texas 79745</p> <p style="margin-left: 20px;"><b>Respondent's Attorney:</b> Not represented by counsel on this enforcement matter.</p>		

**VIOLATION SUMMARY CHART:**

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p><b>Type of Investigation:</b></p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p><b>Date of Complaints Relating to this Case:</b> None</p> <p><b>Dates of Investigation Relating to this Case:</b> June 21, 2006 and March 20, 2007</p> <p><b>Date of NOE Relating to this Case:</b> April 3, 2007</p> <p><b>Background Facts:</b> The EDPRP was filed on June 15, 2007, and re-filed for service on January 10, 2008. It was sent via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards. The Respondents failed to respond to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.</p> <p>No delivery certificate revocation because no delivery certificate has been issued to Respondents, and the Facility is non-operational.</p> <p>The Respondents in this case do not owe any other penalties according to the Administrative Penalty Database Report.</p> <p><b>PST:</b></p> <p>Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].</p>	<p><b>Total Assessed:</b> \$7,875</p> <p><b>Total Deferred:</b> \$0</p> <p><b>Total Due to General Revenue:</b> \$7,875</p> <p>This is a Default Order. The Respondents have not actually paid any of the assessed penalty but will be required to do so under the terms of this order</p> <p><b>Site Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Person Compliance History Classification</b> <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p><b>Major Source:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p><b>Applicable Penalty Policy:</b> September 2002</p>	<p><b>Ordering Provisions:</b></p> <p>The Respondents shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> <li>1. Within 30 days, permanently remove from service the UST system located at the Facility.</li> <li>2. Within 45 days, submit written certification to demonstrate compliance.</li> </ol>



# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

**DATES**

Assigned

9-Apr-2007

PCW

18-Apr-2007

Screening

18-Apr-2007

EPA Due

## RESPONDENT/FACILITY INFORMATION

Respondent

William Dodson

Reg. Ent. Ref. No.

RN101872133

Facility/Site Region

7-Midland

Major/Minor Source

Minor

## CASE INFORMATION

Enf./Case ID No.

33268

Docket No.

2007-0585-PST-E

Media Program(s)

Petroleum Storage Tank

Multi-Media

No. of Violations

1

Order Type

1660

Enf. Coordinator

Chris Holcomb

EC's Team

Enforcement Team 7

Admin. Penalty \$

Limit Minimum

\$0

Maximum

\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)**

Subtotal 1

\$7,500

## ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

5% Enhancement

Subtotals 2, 3, & 7

\$375

Notes

Enhancement for one NOV with same or similar violations.

Culpability

No

0% Enhancement

Subtotal 4

\$0

Notes

The respondent does not meet the culpability criteria.

Good Faith Effort to Comply

0% Reduction

Subtotal 5

\$0

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The respondent does not meet the good faith criteria.

Total EB Amounts

\$4,474

Approx. Cost of Compliance

\$10,000

0% Enhancement\*

\*Capped at the Total EB \$ Amount

Subtotal 6

\$0

**SUM OF SUBTOTALS 1-7**

Final Subtotal

\$7,875

**OTHER FACTORS AS JUSTICE MAY REQUIRE**

Adjustment

\$0

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

\$7,875

**STATUTORY LIMIT ADJUSTMENT**

Final Assessed Penalty

\$7,875

**DEFERRAL**

0%

Reduction

Adjustment

\$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY**

\$7,875

Screening Date 18-Apr-2007

Docket No. 2007-0585-PST-E

PCW

Respondent William Dodson

Policy Revision 2 (September 2002)

Case ID No. 33268

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Chris Holcomb

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%

Please Enter Yes or No

Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

Screening Date 18-Apr-2007

Docket No. 2007-0585-PST-E

PCW

Respondent William Dodson

Policy Revision 2 (September 2002)

Case ID No. 33268

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Chris Holcomb

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

29

Number of violation days

mark only one  
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$7,500

Three monthly events (one event per tank) are recommended from the record review date of March 20, 2007 to the April 18, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4,474

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

## Economic Benefit Worksheet

**Respondent** William Dodson  
**Case ID No.** 33268  
**Reg. Ent. Reference No.** RN101872133  
**Media** Petroleum Storage Tank  
**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	1-Dec-2007	8.9	\$4,474	n/a	\$4,474

Notes for DELAYED costs

Estimated expense to permanently remove the UST system from service. The Date Required is the date when the respondent was required to upgrade the UST system and the Final Date is based on the estimated compliance date.

### Avoided Costs

**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4,474

# Compliance History

Customer/Respondent/Owner-Operator:	CN603070830	DODSON, WILLIAM	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN101872133	WILLIAM AND JOHN DODSON	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION	REGISTRATION	59397	
Location:	321 S POPLAR ST, KERMIT, TX, 79745	Rating Date: 9/1/2006	Repeat Violator: NO	
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	April 25, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 25, 2002 to April 25, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Chris Holcomb Phone: (512) 239-2541

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? John Paul Dodson and William Dodson
4. If Yes, who was/were the prior owner(s)? Oliver Brown
5. When did the change(s) in ownership occur? 07/01/2006

## Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A
- B. Any criminal convictions of the state of Texas and the federal government.  
N/A
- C. Chronic excessive emissions events.  
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
  - 1 08/10/2006 (481324)
  - 2 04/02/2007 (555652)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
 

Date: 08/10/2006 (481324)

Self Report? NO Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: failed to upgrade tanks to meet technical requirements and the tanks have not been permanently removed from service

Self Report? NO Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: failed to amend, update or change registration information as required
- F. Environmental audits.  
N/A
- G. Type of environmental management systems (EMSs).  
N/A
- H. Voluntary on-site compliance assessment dates.  
N/A
- I. Participation in a voluntary pollution reduction program.  
N/A
- J. Early compliance.  
N/A

Sites Outside of Texas

N/A





# Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 19, 2007

**TCEQ**

<b>DATES</b>	Assigned	9-Apr-2007	Screening	18-Apr-2007	EPA Due	
	PCW	18-Apr-2007				

## RESPONDENT/FACILITY INFORMATION

Respondent	John Paul Dodson		
Reg. Ent. Ref. No.	RN101872133		
Facility/Site Region	7-Midland	Major/Minor Source	Minor

## CASE INFORMATION

Enf./Case ID No.	33268	No. of Violations	1	
Docket No.	2007-0585-PST-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Chris Holcomb	
Multi-Media		EC's Team	EnforcementTeam 7	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

## Penalty Calculation Section

**TOTAL BASE PENALTY (Sum of violation base penalties)** Subtotal 1 **\$7,500**

### ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 5% Enhancement Subtotals 2, 3, & 7 **\$375**

Notes Enhancement for one NOV with same or similar violations.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes The respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The respondent does not meet the good faith criteria.

Total EB Amounts	\$4,474
Approx. Cost of Compliance	\$10,000

0% Enhancement\* Subtotal 6 **\$0**  
\*Capped at the Total EB \$ Amount

**SUM OF SUBTOTALS 1-7** Final Subtotal **\$7,875**

**OTHER FACTORS AS JUSTICE MAY REQUIRE** Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount **\$7,875**

**STATUTORY LIMIT ADJUSTMENT** Final Assessed Penalty **\$7,875**

**DEFERRAL** 0% Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

**PAYABLE PENALTY** **\$7,875**

Screening Date 18-Apr-2007

Docket No. 2007-0585-PST-E

PCW

Respondent John Paul Dodson

Policy Revision 2 (September 2002)

Case ID No. 33268

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Chris Holcomb

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

Compliance  
History  
Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 5%

Screening Date 18-Apr-2007

Docket No. 2007-0585-PST-E

PCW

Respondent John Paul Dodson

Policy Revision 2 (September 2002)

Case ID No. 33268

PCW Revision March 19, 2007

Reg. Ent. Reference No. RN101872133

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Chris Holcomb

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 334.47(a)(2)

Violation Description

Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

## &gt;&gt; Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$7,500

\$2,500

## Violation Events

Number of Violation Events 3

29 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events (one event per tank) are recommended from the record review date of March 20, 2007 to the April 18, 2007 screening date.

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$4,474

Violation Final Penalty Total \$7,875

This violation Final Assessed Penalty (adjusted for limits) \$7,875

## Economic Benefit Worksheet

Respondent John Paul Dodson  
Case ID No. 33268  
Reg. Ent. Reference No. RN101872133  
Media Petroleum Storage Tank  
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs.	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

### Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$10,000	22-Dec-1998	1-Dec-2007	8.9	\$4,474	n/a	\$4,474

Notes for DELAYED costs

Estimated expense to permanently remove the UST system from service. The Date Required is the date when the respondent was required to upgrade the UST-system and the Final Date is based on the estimated compliance date.

### Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$4,474

# Compliance History

Customer/Respondent/Owner-Operator:	CN603179292	<u>DODSON, JOHN PAUL</u>	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN101872133	WILLIAM AND JOHN DODSON	Classification: AVERAGE	Site Rating: 2.00
ID Number(s):	PETROLEUM STORAGE TANK REGISTRATION		REGISTRATION	59397
Location:	321 S POPLAR ST, KERMIT, TX, 79745		Rating Date: 9/1/2006	Repeat Violator: NO
TCEQ Region:	REGION 07 - MIDLAND			
Date Compliance History Prepared:	April 25, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 25, 2002 to April 25, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Chris Holcomb Phone: (512) 239-2541

## Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? Yes
3. If Yes, who is the current owner? John Paul Dodson and William Dodson
4. If Yes, who was/were the prior owner(s)? Oliver Brown
5. When did the change(s) in ownership occur? 07/01/2006

## Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.  
N/A

B. Any criminal convictions of the state of Texas and the federal government.  
N/A

C. Chronic excessive emissions events.  
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 08/10/2006 (481324)
- 2 04/02/2007 (555652)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 08/10/2006 (481324)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: failed to upgrade tanks to meet technical requirements and the tanks have not been permanently removed from service

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 334, SubChapter A 334.7(d)(3)

Description: failed to amend, update or change registration information as required

F. Environmental audits.  
N/A

G. Type of environmental management systems (EMSs).  
N/A

H. Voluntary on-site compliance assessment dates.  
N/A

I. Participation in a voluntary pollution reduction program.  
N/A

J. Early compliance.  
N/A

Sites Outside of Texas

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# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
JOHN PAUL DODSON AND  
WILLIAM DODSON;  
RN101872133**

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§

**BEFORE THE  
  
TEXAS COMMISSION ON  
  
ENVIRONMENTAL QUALITY**

## **DEFAULT ORDER DOCKET NO. 2007-0585-PST-E**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality, ("Commission" or "TCEQ") considered the Executive Director's Preliminary Report and Petition filed pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the TCEQ, which requests appropriate relief, including the imposition of an administrative penalty and corrective action of the respondents. The respondents made the subject of this Order are John Paul Dodson and William Dodson ("Respondents").

The Commission makes the following Findings of Fact and Conclusions of Law:

### **FINDINGS OF FACT**

1. Respondents own a former convenience store with retail sales of gasoline located at 321 South Poplar Street, Kermit, Winkler County, Texas (the "Facility").
2. Respondents's three underground storage tanks ("USTs") are not exempt or excluded from regulation under the Texas Water Code or the rules of the Commission. Respondents' USTs contain a regulated substance as defined in the rules of the Commission.
3. During an investigation conducted on June 21, 2006, and a record review conducted on March 20, 2007, a TCEQ Midland Regional Office investigator documented that Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
4. Respondents received notice of the violation on or about August 11, 2006, and April 5, 2007.

5. The Executive Director filed the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John Paul Dodson and William Dodson" (the "EDPRP") in the TCEQ Chief Clerk's office on January 10, 2008.
6. By letters dated January 10, 2008, sent via certified mail, return receipt requested, and via first class mail, postage prepaid, the Executive Director served each Respondent with notice of the EDPRP. According to the return receipt "green cards," Respondents received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards.
7. More than 20 days have elapsed since each Respondent received notice of the EDPRP, provided by the Executive Director. Respondents failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference.

#### CONCLUSIONS OF LAW

1. As evidenced by Finding of Fact Nos. 1 and 2, Respondents are subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Finding of Fact No. 3, Respondents failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements, in violation of 30 TEX. ADMIN. CODE § 334.47(a)(2).
3. As evidenced by Finding of Fact Nos. 5 and 6, the Executive Director timely served Respondents with proper notice of the EDPRP, as required by TEX. WATER CODE § 7.055 and 30 TEX. ADMIN. CODE § 70.104(a).
4. As evidenced by Finding of Fact No. 7, Respondents failed to file a timely answer to the EDPRP, as required by TEX. WATER CODE § 7.056 and 30 TEX. ADMIN. CODE § 70.105. Pursuant to TEX. WATER CODE § 7.057 and 30 TEX. ADMIN. CODE § 70.106, the Commission may enter a Default Order against Respondents and assess the penalty recommended by the Executive Director.
5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against Respondents for violations of the Texas Water Code within the Commission's jurisdiction, for violations of rules adopted under such statutes, or for violations of orders or permits issued under such statutes.



6. An administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) is justified by the facts recited in this Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053.
7. TEX. WATER CODE §§ 5.102 and 7.002 authorize the Commission to issue orders and make determinations necessary to effectuate the purposes of the statutes within its jurisdiction.

### **ORDERING PROVISIONS**

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. Respondents are assessed an administrative penalty in the amount of seven thousand eight hundred seventy-five dollars (\$7,875.00) for violations of the Texas Water Code and the rules of the TCEQ. The payment of this administrative penalty and Respondents' compliance with all the terms and conditions set forth in this Order completely resolve the matters set forth by this Order in this action. The Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations which are not raised here. All checks submitted to pay the penalty imposed by this Order shall be made out to the "Texas Commission on Environmental Quality." The administrative penalty assessed by this Order shall be paid within 30 days after the effective date of this Order and shall be sent with the notation "Re: John Paul Dodson and William Dodson; Docket No. 2007-0585-PST-E" to:

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088

2. Respondents shall undertake the following technical requirements:
  - a. Within 30 days after the effective date of this Order, Respondents shall permanently remove from service the UST system located at the Facility, in accordance with 30 TEX. ADMIN. CODE § 334.55.
  - b. Within 45 days after the effective date of this Order, Respondents shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with ordering provision No.

2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Respondents shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision No. 2.a. to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Michael Edmiston, Water Section Manager  
Texas Commission on Environmental Quality  
Midland Regional Office  
3300 North A Street, Bldg. 4-107  
Midland, Texas 79705-5451

3. All relief not expressly granted in this Order is denied.
4. The provisions of this Order shall apply to and be binding upon Respondents. Respondents are ordered to give notice of this Order to personnel who maintain day-to-day control over the Facility operations referenced in this Order.
5. If Respondents fail to comply with any of the Ordering Provisions in this Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Respondents' failure to comply is not a violation of this Order. Respondents shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Respondents shall notify the Executive Director within

seven days after Respondents become aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

6. The Executive Director may grant an extension of any deadline in this Order or in any plan, report, or other document submitted pursuant to this Order, upon a written and substantiated showing of good cause. All requests for extensions by Respondents shall be made in writing to the Executive Director. Extensions are not effective until Respondents receive written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to Respondents if the Executive Director determines that Respondents has not complied with one or more of the terms or conditions in this Order.
8. This Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Order, whichever is later.
9. The Chief Clerk shall provide a copy of this Order to each of the parties. By law, the effective date of this Order shall be the date the Order is final, as provided by 30 TEX. ADMIN. CODE § 70.106(d) and TEX. GOV'T CODE § 2001.144.

## SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

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For the Commission

**AFFIDAVIT OF LENA ROBERTS**

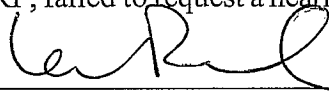
STATE OF TEXAS       §  
                                  §  
COUNTY OF TRAVIS   §

"My name is Lena Roberts. I am of sound mind, capable of making this affidavit, and the facts stated in this affidavit are within my personal knowledge and are true and correct.

On behalf of the Executive Director of the Texas Commission on Environmental Quality, the "Executive Director's Preliminary Report and Petition Recommending that the Texas Commission on Environmental Quality Enter an Enforcement Order Assessing an Administrative Penalty Against and Requiring Certain Actions of John Paul Dodson and William Dodson" (the "EDPRP") was filed with the Office of the Chief Clerk on January 10, 2008.

The EDPRP was mailed to each Respondent at his last known address on January 10, 2008, via certified mail, return receipt requested, and via first class mail, postage prepaid. According to the return receipt "green cards," each Respondent received notice of the EDPRP on January 29, 2008, as evidenced by the signatures on the cards.

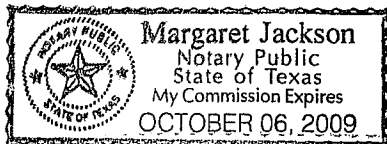
More than 20 days have elapsed since Respondents received notice of the EDPRP. Respondents failed to file an answer to the EDPRP, failed to request a hearing, and failed to schedule a settlement conference."



Lena Roberts, Attorney  
Office of Legal Services, Litigation Division  
Texas Commission on Environmental Quality

Before me, the undersigned authority, on this day personally appeared Lena Roberts, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same for the purposes and consideration herein expressed.

Given under my hand and seal of office this 20<sup>th</sup> day of February, 2008.

  
Notary Signature